

REMARKS

Reconsideration of the above-identified application, in view of the following remarks, is respectfully requested. This submission is in response to the Final Office Action dated November 21, 2007. Claims 1 and 2 have been amended to recite components as separate line entries and to recite amounts in consistent manner for purposes of clarity only. Additionally, claims 1 and 2 have been amended to recite that the antimicrobial composition is effective in inhibiting gram (+) and gram (-) bacteria. Support for this amendment is found in Examples 11 and 15 of the present specification. Claims 1-2 remain currently pending. No new matter is added by way of this amendment.

Claims 1 and 2 stand finally rejected under 35 U.S.C. § 103(a) as unpatentable over Modak et al. (U.S. Patent No. 5,965,610) or Jampani et al. (U.S. 5,980,925) in view of Beilfuss et al. (U.S. 5,516,510). According to the Examiner, Modak and Jampani each disclose all aspects of the invention with the exception of octoxyglycerin. The Examiner asserts that the addition of octoxyglycerin to enhance activity of active ingredients is taught by Beilfuss. Therefore, the Examiner concluded that one skilled in the art, based on the teachings of the cited art, would arrive at the claimed invention.

In response to the previously filed amendment, the Examiner noted that any composition comprising the ingredients would inherently meet the claimed composition. Further, the Examiner noted that the invention did not specify inhibition of specific bacteria. The Examiner was silent with respect to the unexpected results noted in the Examples. Nonetheless, the Examiner found Applicants' previous arguments unpersuasive. Applicants traverse the rejection and respectfully request reconsideration.

Applicants submit that the present claims are not obvious over the cited art. As noted above, claims 1 and 2 have been amended to include the effective inhibition against gram (+) and gram (-) bacteria. These amendments are fully supported by the specification as noted in detail above. As conceded by the Examiner, Modak and Jampani fail to disclose or teach octoxyglycerin. However, applicants note that neither reference discloses or teaches the effective inhibition against gram (+) and gram (-) bacteria, as is presently claimed.

One skilled in the art would not combine either reference with Beilfuss to arrive at the claimed invention as Beilfuss is solely directed to deodorant compositions with specific effects

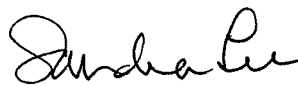
against gram-positive bacteria. As noted in the previous amendment, Beilfuss emphasizes “good effect in particular against the gram-positive bacteria which are particularly relevant from the point of view of causing odor”. (See 1:49-51; 2:24-26; and 2:51-53). The present invention explicitly differentiates itself from deodorant type formulations. “Formulations useful as deodorants, however, would differ from those used as skin sanitizers in that skin sanitizers would optimally exhibit rapid broad spectrum activity against bacteria, fungi, and viruses”. (See ¶16 publication). This is evidenced in the Examples of the present specification, including Examples 11 and 15, which demonstrate antimicrobial activity against both gram-positive as well as gram-negative bacteria.

Thus, Beilfuss is limited in its teachings and applications and would not be considered to one skilled in the art to have any ability beyond gram positive bacteria. Therefore, Applicants submit that one skilled in the art would not be motivated to combine Modak or Jampani with Beilfuss to arrive at the presently claimed invention. Accordingly, Applicants request the rejection be withdrawn.

In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and the claims allowed. If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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February 21, 2008

Date